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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
Seattle, Washington

RCRA PERMIT
ADMINISTRATIVE RECORD -2
ITEM NUMBER
TOTAL NUMBER OF PAGES

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY,

Complainant,

v.

VAN WATER AND ROGERS, INC., formerly
VAN WATERS AND ROGERS, a Division
of Univar Corporation,
ORD009227398

Respondent.

Docket No. 1086-01-01-3008

CONSENT AGREEMENT AND
FINAL ORDER

I. JURISDICTION

1. Jurisdiction to issue this Compliance Order exists under
42 U.S.C. § 6928.

2. The Complainant is the United States Environmental Protection
Agency ("EPA").

3. The Respondent is Van Waters and Rogers Inc., formerly Van
Waters and Rogers, a division of Univar Corporation ("Respondent" or VWR).
The Respondent is the owner and operator of a facility at 3950 N.W. Yeon
Avenue, Portland, Oregon ("the facility").

4. Pursuant to RCRA Section 3008(a), 42 U.S.C. § 6928(a), EPA is
authorized to take enforcement action within states granted authority to

USEPA RCRA



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1 manage hazardous wastes under RCRA § 3006, 42 U.S.C. §6926, regarding
2 activities which constitute violations of any requirement of the federally
3 authorized state program. As the State of Oregon Department of
4 Environmental Quality ("DEQ") received such authorization in January 1986,
5 noncompliance with the requirements of the approved Oregon program
6 constitutes a violation of both state and federal requirements.

7 5. EPA has notified the State of Oregon of this action as
8 required under RCRA § 3008(a)(2), 42 U.S.C. § 6928(a)(2). DEQ has deferred
9 to EPA to initiate this enforcement action pertaining to any of the
10 violations cited in this Order.

11 6. On the basis of information received by the Regional
12 Administrator, much of which is set forth below, EPA hereby determines that
13 the Respondent, a "person" within the meaning of 42 U.S.C. § 6903(15), has
14 violated one or more requirements of RCRA Subtitle C, 42 U.S.C. Chapter 82,
15 Subchapter III and the regulations promulgated thereunder.

16 II. FINDINGS OF FACT

17 1. On or about September 18, 1980, Respondent submitted to EPA a
18 "Notification of Hazardous Waste Activity" (EPA Form 8700-12) for its
19 Portland, Oregon facility located at 3950 N.W. Yeon Avenue pursuant to RCRA
20 § 3010(a), 42 U.S.C. § 6930(a). Respondent received EPA identification
21 number ORD 009227398. That notification identified Respondent as the owner
22 and operator of the facility. On or about September 26, 1980, Respondent
23 submitted Part A of its permit application to EPA identifying Respondent's
24 operation of the facility for the storage and treatment of F001 and F002
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1 listed hazardous wastes. This Part A application was later modified by a
2 July 13, 1981 submittal in which the only hazardous waste process identified
3 was storage.

4 2. On or about June 4, 1981, Respondent was issued a Hazardous
5 Waste Treatment-Collection Site License (HWTF-5) by the Oregon Department of
6 Environmental Quality. This license, which expired on January 30, 1986, was
7 issued for the following hazardous waste treatment and collection activities:

8 TREATMENT: perchloroethylene; methylene chloride; and 1,1,1,
9 trichloroethane; and

10 COLLECTION SITE: toxic hazardous waste; corrosive hazardous
11 waste; and ignitable hazardous waste.

12 3. On or about September 23, 1985, the DEQ issued Respondent a
13 Notice of Violation and Intent to Assess Civil Penalty for, inter alia,
14 having an inadequate closure plan. In response to this notice, the
15 Respondent submitted a revised closure plan in May of 1986.

16 4. Based on EPA's review of Respondent's revised closure plan
17 dated May 1986, and DEQ's comments on the plan, the plan does not identify
18 the steps necessary to completely close the facility, in violation of
19 OAR 340-105-010(6)(b) [which in this instance refers to 40 C.F.R.
20 § 265.112(a)], as described below:

21 a. There was no discussion in the plan on sampling the
22 underlying soils in storage areas where cracks are present in the pad. The
23 statement, "[S]urface sampling of the area will then be conducted" is the
24 only reference in the plan to confirm that the storage pad will be tested to
25 assure that clean closure has been achieved. If hazardous waste
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1 constituents remain after closure, then the facility has failed to achieve
2 clean closure and the hazardous waste remaining must be treated as a land
3 disposal facility subject to closure and post-closure requirements as a
4 landfill.

5 b. The description of the parameters and sampling
6 procedures to be followed to confirm that releases to soil and/or
7 groundwater have not occurred is also not contained in the plan. Instead,
8 only a reference to Respondent's waste analysis plan is made concerning the
9 analysis and testing of decontamination wash water. This reference does not
10 identify if the analysis to be performed is for all hazardous waste
11 constituents, for example, the parameters listed in Table 4 of Respondent's
12 November 1985 waste analysis plan. Also, there is no discussion in the
13 closure plan concerning action levels for cleanup. For example, since the
14 facility handled listed wastes, the detection of any parameter listed at
15 Table 4 would require additional decontamination and/or waste removal as the
16 constituent detected would be the dilution product of a spill residue of
17 listed hazardous waste and would itself be hazardous.

18 c. The closure plan contains a statement as follows: "If
19 there is evidence of any spills or leaks from the facility, samples will be
20 taken and analyzed to determine the extent of contamination in the soil, and
21 if necessary, in groundwater." As spills have been identified at the
22 facility by Respondent, the closure plan must include a plan for the
23 monitoring of soil. The closure plan must also include a plan for
24 monitoring of groundwater in the event soil contamination is detected at
25 either the 10.0 to 12.0-foot range or 15.0 to 17.0-foot range, or if very
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1 high levels of contamination are found in the sample from the 0.5 to
2 2.5- foot and 5.0 to 7.0-foot sample foot intervals. In Respondent's letter
3 dated April 17, 1986, to DEQ, Respondent confirmed at least three (3) spills
4 at the facility. Incident number 1 was a small spill of methylene chloride
5 which occurred during a transfer operation on August 15, 1980; the second
6 incident was on September 8, 1983, and involved the spill of approximately
7 515 gallons of trichloroethylene (TCE); and the third spill is believed to
8 have occurred in 1979 and involved an acid release. Apparently, the third
9 spill was an inadvertent continuing release which resulted in damage to a
10 sanitary sewer. To prevent against future problems under supervision of the
11 city of Portland, Van Waters and Rogers replaced several hundred feet of
12 sanitary sewer in 1985.

13 5. In addition to the deficiencies above, the closure plan does
14 not include an estimate of the expected year of closure nor does it include
15 a schedule for final closure activities, both in violation of
16 OAR 340-105-010(6)(b) which refers to the requirements of 40 C.F.R.
17 § 265.112(a)(4) in this case.

18 6. After receipt of the initial complaint and compliance order
19 in this matter, Respondent submitted a revised closure plan which addresses
20 the deficiencies noted above.

21 22 III. CONCLUSIONS OF LAW


23 Based upon the matters set forth above, Respondent has violated
24 OAR 340-105-010(6)(b) and therefore, violated RCRA Subtitle C, 42 U.S.C.
25 Chapter 82, Subchapter III. Accordingly, the issuance of this Order is
26 authorized by RCRA Section 3008(a), 42 U.S.C. § 6928(a).

TV AGREEMENT

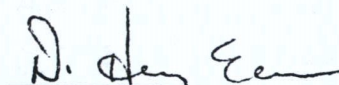
1. Respondent admits the jurisdictional allegations contained in paragraph 1 through 5 of this Consent Agreement and Final Order. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Agreement and Order. However, to resolve this matter, Respondent has agreed to abide by the Final Order contained in this document. Respondent waives its right to an administrative hearing on this matter, and waives any right of appeal or challenge of this Consent Agreement and Final Order.

2. EPA will use its best efforts to ensure the prompt formal approval of the closure plan dated December 31, 1986, by the State of Oregon Department of Environmental Quality.

Dated: 4/23/87


FOR RESPONDENT VAN WATERS AND
ROGERS, INC., formerly VAN WATERS
AND ROGERS, a division of Univar
Corporation

Dated: 11/22/87


FOR COMPLAINANT UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

FINAL ORDER

1. Based upon the foregoing Findings of Fact and Conclusions of Law, which are incorporated herein by reference, which the Respondent neither admits nor denies, Respondent Van Waters and Rogers, Inc., formerly Van Water and Rogers, a division of Univar Corporation, shall modify the

1 December 31, 1986 closure plan to address EPA's and DEQ's comments, if any,
2 developed as a result of the public comment period held by EPA and DEQ
3 pursuant to 40 C.F.R. § 265.112(d), and shall implement the closure plan for
4 the VWR facility at 3950 N.W. Yeon Avenue immediately upon formal approval
5 of this plan by the State of Oregon Department of Environmental Quality,
6 according to the terms and schedules contained therein.

7 2. Upon completion of the closure plan, Respondent shall notify
8 EPA of its completion and certification, by submission of a letter to:

9 Kenneth D. Feigner, Chief
10 Waste Management Branch (HW-112)
11 Environmental Protection Agency
12 1200 Sixth Avenue
13 Seattle, Washington 98101

14 Dated this 1st day of May, 1987.

15 Charles E Findley
16 CHARLES E. FINDLEY, Director
17 Hazardous Waste Division
18 EPA Region 10
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